SUE ANN SALMON EVANS, State Bar No. 151562
sevans@mbdlaw.com
AMY R. LEVINE, State Bar No. 160743
alevine@mbdlaw.com
SARAH L. W. SUTHERLAND, State Bar No. 239889
ssutherland@mbdlaw.com
MILLER BROWN & DANNIS
Symphony Towers
750 B Street, Suite 2310
San Diego, CA 92101
Telephone: (619) 595-0202
Facsimile: (619) 702-6202

Attorneys for Defendant SAN DIEGO UNIFIED SCHOOL DISTRICT

MILLER BROWN & DANNIS
SYMPHONY TOWERS
750 B STREET, SUITE 2310
SAN DIEGO, CA 92101

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

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| T.B., Allison Brenneise and Robert Brenneise,<br><br>Plaintiffs,<br><br>v.<br><br>San Diego Unified School District,<br><br>Defendant. | Case No. 08 CV 0028 WQH WMc<br><br>**DEFENDANT SAN DIEGO UNIFIED SCHOOL DISTRICT'S REQUEST FOR JUDICIAL NOTICE**<br><br>Date: May 12, 2008<br>Time: 11:00 a.m.<br>Dept.: 4<br>Judge: Hon. William Q. Hayes<br><br>Complaint Filed: January 4, 2008<br><br>NO ORAL ARGUMENT UNLESS REQUESTED BY THE COURT |

Pursuant to Federal Rule of Evidence 201, Defendant San Diego Unified School District ("District") hereby requests that the court take judicial notice of the following documents:

(A) Motion to Dismiss filed by Plaintiff T.B. in *T.B. v. San Diego Unified School District*, Office of Administrative Hearings ("OAH") Case No. N2007110255; and

(B) Analysis of Comments and Changes to 2006 Individuals with Disabilities Education Act Part B Regulations, 71 Fed. Reg. 46602 (August 14, 2006).

On March 12, 2008, Plaintiffs filed a Motion to Dismiss in an administrative due process matter entitled *T.B. v. San Diego Unified School District*, OAH Case No. N2007110255, a copy of which is attached hereto as Exhibit A. "A court may take judicial notice of 'records and reports of administrative bodies.'" (*Mack v. Southbay Beer Distributors, Inc.*, 789 F.2d 1279, 1282 (9th Cir. 1986) [quoting *Interstate Nat. Gas. Co. v. S. Cal. Gas. Co.*, 209 F.2d 380, 385 (9th Cir. 1953); *see also MGIC Indemnity Corporation v. Weisman*, 803 F.3d 500, 504 (9th Cir. 1986) [court took judicial notice of a motion to dismiss and declaration filed in a declaratory judgment suit]; *Disabled Rights Action Committee v. Las Vegas Events, Inc.*, 375 F.3d 861, 866 (9th Cir. 2004) [court took judicial notice of licensing agreements that were documents of a State University System]; *Fadaie v. Alaska Airlines, Inc.*, 293 F.Supp.2d 1210, 1215 (W.D. Wash. 2003) ["Administrative complaints and agency decisions are the type of public records that are properly the subject of judicial notice"].)

On August 14, 2006 the United States Department of Education ("DOE") issued its Final Regulations to the Reauthorized Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.* As part of the Final Regulations, the DOE included an "Analysis of Comments and Changes" to the Regulations. As part of this Analysis, the DOE commented on whether parents may be reimbursed for attorneys' fees they incurred in filing a State complaint against a school district. A copy of said comments is attached hereto as Exhibit B. "A court may take judicial notice of 'records and reports of administrative bodies.'" (*See Mack*, 789 F.2d at 1282 (9th Cir. 1986) [quotation omitted].)

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MILLER BROWN & DANNIS
SYMPHONY TOWERS
750 B STREET, SUITE 2310
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SAN DIEGO, CA 92101

Accordingly, the District respectfully requests request that the Court take judicial notice of the Motion to Dismiss and the Analysis of Comments and Changes, set forth in Exhibits A and B.

DATED: April 3, 2008

MILLER BROWN & DANNIS

By: /sAmy R. Levine
SUE ANN SALMON EVANS
AMY R. LEVINE
SARAH L. W. SUTHERLAND
Attorneys for Defendant
SAN DIEGO UNIFIED SCHOOL DISTRICT